

**United States District Court
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

RUTHIE HULLETT,

§

Plaintiff,

§

v.

§

DEUTSCHE BANK NATIONAL
TRUST COMPANY, as TRUSTEE, *et al.*,

§

Defendants.

§

§

§

§

§

§

Civil Action No. 4:22-cv-651-ALM-KPJ

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On February 6, 2023, the Magistrate Judge entered proposed findings of fact and recommendations (the “Report”) (Dkt. #33).

Having received the Report of the United States Magistrate Judge, and no timely objections being filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge’s Report as the findings and conclusions of the Court.

Accordingly, **IT IS ORDERED** that Judge Brian K. Gary’s (“Judge Gary”) Motion to Dismiss (Dkt. #27) is **GRANTED IN PART** and **DENIED IN PART**; Plaintiff Ruthie Hullett’s claims for monetary damages against Judge Gary in his official capacity are **DISMISSED WITHOUT PREJUDICE** and, to the extent Plaintiff is asserting such a claim, Plaintiff’s claims for monetary damages against Judge Gary in his individual capacity are **DISMISSED WITH PREJUDICE**. Additionally, Plaintiff’s request for equitable or declaratory relief regarding the state court foreclosure proceedings and judgment as to all Defendants is

DISMISSED WITHOUT PREJUDICE for lack of jurisdiction under the *Rooker-Feldman* doctrine.

IT IS FURTHER ORDERED that the State of Texas's ("State of Texas") Motion to Dismiss, (Dkt. #16), is **GRANTED**, and Plaintiff's claims for monetary damages against the State of Texas are **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that Hughes Watters Askanase, LLP's ("HWA") Motion to Dismiss (Dkt. #17) is **GRANTED**, and Plaintiff's claims for monetary damages against HWA are **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that Deutsche Bank National Trust Company, as Trustee for the Registered Holders of Morgan Stanley ABS Capital I Inc. Trust 2004-HE1, Mortgage Pass-Through Certificates, Series 2004-HE1 ("Deutsche Bank") and Select Portfolio Servicing, Inc.'s ("SPS") Motion to Dismiss ("Deutsche Bank and SPS's Motion to Dismiss") (Dkt. #8) is **GRANTED IN PART** and **DENIED IN PART** as follows: Deutsche Bank and SPS's Motion to Dismiss is **GRANTED** as to Plaintiff's claims for monetary damages against Deutsche Bank and SPS under the Texas Deceptive Trade Practices Act ("DTPA") and for negligent infliction of emotional distress, and these claims are **DISMISSED WITH PREJUDICE**; and Deutsche Bank and SPS's Motion to Dismiss is **DENIED WITHOUT PREJUDICE** as to Plaintiff's remaining claims for monetary damages against Deutsche Bank and SPS.

IT IS FURTHER ORDERED that Plaintiff is **GRANTED** leave to amend her remaining claims for monetary damages against Deutsche Bank and SPS in accordance with the Report (Dkt. #33), with the amended pleading due no later than fourteen (14) days after receipt of this Memorandum Adopting the Report and Recommendation.

The Court **FURTHER ORDERS** that Plaintiff's Motion for Summary Judgment (Dkt. #23) is **DENIED WITHOUT PREJUDICE**.

SIGNED this 13th day of March, 2023.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE